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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8  
990 18<sup>TH</sup> STREET - SUITE 300  
DENVER, CO 80202-2466  
<http://www.epa.gov/region08>

January 4, 2002

Ref: ENF-L

Tom Lewis, Esq.  
Lewis, Huppert & Slovak, P.C.  
P.O. Box 2325  
725 3rd Avenue North  
Great Falls, Montana 59403

Dear Mr. Lewis:

I have enclosed a much abbreviated draft version of a final compensation agreement for the Parkers. EPA should be able to place a final monetary figure into the draft in the very near future. Please review the draft and call me with suggestions or concerns at (303) 312-6853. This draft has not been reviewed by my management and therefore does not represent an Agency position. It is simply a discussion draft to expedite final resolution of this matter. Our Headquarters office may require some modifications, but I would like your input first.

Sincerely,

A handwritten signature in cursive script that reads "Matthew Cohn".

Matthew Cohn  
Legal Enforcement Program

Enclosure



Printed on Recycled Paper

# REIMBURSEMENT AGREEMENT

## LIBBY ASBESTOS SITE

Lincoln County, Montana

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2002, by and between Mel and Lirah Parker ("Owner") and the United States Environmental Protection Agency ("EPA").

WHEREAS, the response action at the Libby Asbestos Site (the "Site"), Lincoln County, Montana by EPA is authorized by Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq., and the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300; and

WHEREAS, the Owner is the owner of the land and improvements (the "Property") within the Screening Plant, a former vermiculite processing facility located within the Site; and

WHEREAS, the Owner maintained a residence on the Property and operated the Raintree Nursery, a business located on the Property; and

WHEREAS, the Action Memorandum issued by EPA on May 23, 2000 documented EPA's determination that cleanup was necessary at the Screening Plant because of asbestos contamination, thus requiring the temporary relocation of the Owner's home and business; and

WHEREAS, the selected response action being implemented at the Property resulted in or will result in the demolition of the Owner's home and buildings related to the nursery business, and the disposal of contaminated personal items, business inventory and other business related items which were either not amenable to cleaning or were more expensive to clean than to replace; and

WHEREAS, the Owner certifies that the Property was purchased with no knowledge of the asbestos contamination; and

WHEREAS, the Owner granted access to the Property to EPA, its employees, agents, contractors and representatives for purposes of implementing the selected response action for the Screening Plant; and

WHEREAS, EPA has been providing funds to the Owner for temporary relocation assistance so that the Owner may maintain a different residence during the implementation of the selected response action at the Screening Plant; and

WHEREAS, in February 2001 EPA and the Owner consummated an agreement under which EPA agreed to pay, and has paid, to the Owner the sum of FIVE HUNDRED FORTY SIX

THOUSAND FOUR HUNDRED TWENTY DOLLARS AND NINETY ONE CENTS (\$546,420.91) as replacement value of all personal items, equipment and inventory disposed of pursuant to implementation of the selected response action; and

WHEREAS, EPA and the Owner agreed to resolve by separate agreement a fair and appropriate amount of compensation to be paid by EPA for the resulting demolition of buildings, structures and other infrastructure located on the Property;

NOW, THEREFORE, in consideration of the mutual promises, obligations, and agreements set forth below, the parties agree as follows:

**I. Obligations of EPA.**

A. Those obligations established pursuant to the prior Agreement between EPA and Owner executed by EPA on March 21, 2001.

B. EPA shall pay to the Owner the sum of (\$ ) within thirty (30) days of execution of this Agreement, which sum represents the actual cash value of all buildings, structures and infrastructure damaged or demolished by the implementation of the selected response action. The list of all such property for which compensation is being provided pursuant to this paragraph is attached as Exhibit 1 to this Agreement.

**II. Obligations of the Owner.**

A. Those obligations established pursuant to the prior Agreement between EPA and Owner executed by EPA on March 21, 2001.

B. The Owner agrees that compensation will not be sought in any forum for the costs associated with damage to, or demolition of buildings, structures or other infrastructure where such compensation has already been provided for pursuant to this Agreement.

**III. Release of Claims.**

The Owner hereby agrees that payment by EPA of the monetary amounts set forth herein in Paragraph I.B. represents full settlement and just compensation, under all applicable laws and regulations, of any and all claims the Owner may have against EPA as compensation for any damages incurred pursuant to implementation of the selected response action. The Owner expressly reserves all rights against W.R. Grace & Company and any other legal entity, and this release is not intended to release any other rights or causes of action against any and all legal entities other than the EPA.

**IV. Reservation of Rights.**

Nothing in this Agreement shall preclude EPA from pursuing any legal remedy that it may otherwise have against any potentially responsible party in order to recover costs EPA incurs for

response actions at the Site.

## **V. Notices.**

A. Any notice or communication required or permitted under this Agreement shall be deemed to have been given if in writing and either delivered personally or mailed by first-class, registered, or certified mail, as follows:

If to the Owner:

Mel and Lirah Parker  
P.O. Box 609  
Libby, MT 59923

If to EPA:

Paul Peronard, EPR-ER  
U.S. Environmental Protection Agency  
999 18th Street, Suite 300  
Denver, CO 80202

B. A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner prescribed above.

## **VI. Modification.**

This Agreement may be amended, modified or terminated only by written instrument or written instruments signed by both parties hereto. No oral comment nor act or course of dealing shall be construed to constitute an amendment, modification or termination hereof.

## **VII. Parties Bound**

This Agreement is binding upon EPA and any successor agency of the U.S. Government, and upon the Owner and the Owner's heirs, successors and assigns.

## **VIII. Obligation of Future Appropriations**

Nothing in this Agreement shall constitute, nor be deemed to constitute, an obligation of future appropriations by the Congress of the United States of America.

## **IX. Payment Information**

Payee name and address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
  
Receiving bank information for wire transfer:

Parker Account Name: \_\_\_\_\_

Account Number: \_\_\_\_\_

Bank Name: \_\_\_\_\_

Bank Number: \_\_\_\_\_

Wire Transfer Number: \_\_\_\_\_

**DRAFT**

IN WITNESS WHEREOF, the parties have executed this Agreement, which shall become effective upon the date on which EPA executes the Agreement.

Owner

U.S. Environmental Protection Agency

\_\_\_\_\_  
Mel Parker

\_\_\_\_\_  
Max Dodson  
Assistant Regional Administrator  
Office of Ecosystem Protection  
and Remediation

\_\_\_\_\_  
Social Security Number

Date: \_\_\_\_\_

\_\_\_\_\_  
Lirah Parker

\_\_\_\_\_  
Social Security Number

Date: \_\_\_\_\_

Notary: \_\_\_\_\_

Date: \_\_\_\_\_

DRIVE